



State of California
Fair Political Practices Commission

Bulletin

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May 1998

Ballot Measure Committees

Foreign Contributions Prohibited by Act

Effective January 1, 1998 the Act was amended by Chapter 67, Stats. 1997, to include Section 85320 that prohibits foreign governments and foreign principals from making contributions, expenditures or independent expenditures in connection with the qualification or support of, or opposition to, any state or local initiative, recall or referendum measure.

Persons (including individuals, corporations, and business entities) and all recipient committees are also prohibited from soliciting or accepting contributions from foreign governments or foreign principals in connection with the qualification or support of, or opposition to, any state or local initiative, recall, or referendum measure.

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Proposition 218 Elections

Disclosure Requirements

Proposition 218, a statewide initiative that was passed by the voters on November 5, 1996, requires voter approval of tax increases. The Commission does not interpret or enforce provisions of Proposition 218. The mail-out ballot and protest procedure for assessment districts is *not* considered a measure or an election under the Act. Expenditures and contributions advocating the passage or defeat of the assessment are not reportable.

Elections held for general and special tax measures placed on the ballot for voter approval by local governments are considered "ballot measures" under the Political Reform Act. Expenditures and contributions made in support of, or in opposition to, these ballot measures are required to be disclosed. Refer to FPPC Campaign Information Manual D for further information on ballot measure disclosure (available from your city or county election department).

Contact the Secretary of State, Elections Division at (916) 657-2166 or a local elections office for information about conducting Proposition 218 elections.

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California Fair Political Practices Commission

James M. Hall, Chairman
William Deaver, Commissioner
James Porter, Commissioner
Kathleen Richter-Makel, Commissioner
Carol Scott, Commissioner

Commission Meetings

Meetings are regularly scheduled for the first Thursday of each month at 10:00 a.m. in the Commission Hearing Room, 428 J Street, 8th Floor, Sacramento. Please contact the Commission to confirm meeting dates.

Pursuant to Section 11125 of the Bagley-Keene Open Meeting Act, the FPPC is required to give notice of its meetings ten (10) days in advance of the meeting. In order to allow time for inclusion in the meeting agenda and reproduction, all Stipulation, Order and Decision materials must be received by the FPPC no later than three (3) business days prior to the ten day notice date.

To receive a copy of the Commission meeting agenda (free) or a copy of the full meeting packet (\$10/month or \$100/year) contact the Commission at (916) 322-5660. The agenda and packet are also available through the Commission's Fax-On-Demand service at 1-888-622-1151, index number 7000.

Ballot Measure Committees

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"Foreign Principal" Definition

The term "foreign principal" is defined as:

- A government of a foreign country and a foreign political party;
- A person outside of the United States, unless it is established that such person is an individual and a citizen of and domiciled within the United States, or that such person is not an individual and is organized under or created by the laws of the United States or of any state or other place subject to the jurisdiction of the United States and has its principal place of business within the United States;
- A partnership, association, corporation, organization, or other combination of persons organized under the laws of or having its principal place of business in a foreign country.

Who is Not Covered

A domestic subsidiary of a foreign corporation may make contributions, expenditures, or independent expenditures if the decision to contribute or expend funds is made by an officer, director, or management employee of the corporation who is a United States citizen or lawfully admitted permanent resident.

Note to Candidates

The Federal Election Campaign Act prohibits contributions from national banks, national corporations (or corporations established by an Act of Congress) and foreign nationals in connection with any local, state, or federal election for political office. The Commission **does not** have jurisdiction over interpretation or enforcement of this law. Contact the Federal Election Commission at (800) 424-9530 for more information.

What's New

- Public agencies and their officials and employees can now get a new, easy-to-understand document that answers most questions about getting involved in ballot measure campaigns. In mid-April, the FPPC started distributing a new, one-page fact sheet (see insert on next page) that shows how the Political Reform Act and other state laws apply to campaigns to support or oppose ballot measures.

The fact sheet is also available on the FPPC website (www.fppc.ca.gov/fppc/) or through its toll-free fax-on-demand service (1-888-622-1151, index 2024).

- Commission Advice Letters from 1986 to the present are now available on Lexus under California Library, filename "CAFAIR." For more information, contact Lexus at 1-800-227-9597.
- The following forms and a regulation have been added to the Commission's fax-on-demand service that can be accessed by dialing 1-888-622-1151:

Index 2017	Form 425 - Semi-Annual Statement of No Activity
Index 2018	Form 450 - Short Form Recipient Committee Campaign Disclosure Statement
Index 2019	Form 465 - Supplemental Independent Expenditure Report
Index 2020	Form 470 - Short Form Officeholder and Candidate Campaign Statement and Form 470 Supplement
Index 2021	Form 495 - Supplemental Pre-election Campaign Statement
Index 2022	Form 497 - Late Contribution Report
Index 2023	Regulation 18531.5 -- Officeholder Accounts During Interim Period
Index 2063	1998 Addendum to Campaign Disclosure Manuals A-E

New Assistant General Counsel Appointed

FPPC Senior Counsel Luisa Menchaca has been named Assistant General Counsel to the Commission. The new post was announced during the Commission's May 7 meeting.

"The Commission is pleased to name Ms. Menchaca as Assistant General Counsel," said FPPC Chairman James M. Hall, "in recognition of her commitment to the public, her intellect, and her constant professionalism."

Ms. Menchaca has served as an attorney in the Commission's Legal Division since 1990. She previously was a consultant to the Assembly Elections and Reapportionment Committee and also worked for the Senate Office of Research. She received her undergraduate degree from Loyola Marymount University and her law degree from the University of California, Davis. She was raised and schooled in Santa Paula, Ventura County.

Ms. Menchaca will oversee drafting of commission regulations necessary to implement statutes enacted by the Legislature and provide advice to members of the public who have questions regarding the Political Reform Act.

June 1998 Statewide Ballot Measures

The following ballot summaries are from the "California Voter Information Guide and Ballot Pamphlet" for the June 2, 1998, Primary Election prepared by the Secretary of State's office.

Proposition 219

Ballot Measures. Application.

Requires statewide/local ballot measure to apply in all parts of jurisdiction, regardless of how parts of jurisdiction voted. Prohibits alternative versions of a measure from becoming law based upon specified vote percentage.

Proposition 220

Courts. Superior and Municipal Court Consolidation.

Provides for consolidation of superior and municipal courts in county upon approval by majority of county's superior and municipal court judges. Makes related changes to court system.

Proposition 221

Subordinate Judicial Officers. Discipline.

Grants Commission on Judicial Performance discretionary authority to discipline subordinate judicial officers according to same standards as judges, as specified, subject to review by California Supreme Court.

Proposition 222

Murder. Peace Officer Victim. Sentence Credits.

Provides second degree murder of peace officer on duty is punishable by life in prison without parole where aggravating factors are present. Eliminates duplicative provision. Disallows person convicted of murder from earning credits to reduce the prison sentence.

Proposition 223

Schools. Spending Limits on Administration.

Prohibits school districts from spending more than five percent of funds from all sources for administrative costs. Authorizes fines for failure to comply.

Proposition 224

State-Funded Design and Engineering Services.

Imposes restrictions on state-funded design and engineering contracts. Requires cost comparison between private contractors and public employees performing work. Provides defined competitive bidding requirement.

Proposition 225

Limiting Congressional Terms.

Establishes as California's official position that state and federal legislators support U.S. Constitutional amendment establishing Congressional term limits and requires them to use their powers to enact Congressional term limits.

Proposition 226

Political Contributions by Employees, Union Members, Foreign Entities.

Requires employee's or union member's permission to withhold wages or union dues for political contributions. Prohibits foreign contributions to state and local candidates.

Proposition 227

English Language in Public Schools.

Requires all public school instruction be in English, unless parents request otherwise and show certain circumstances. Provides short-term English immersion programs for children learning English. Funds community English instruction.

Money Laundering Violations

March 5 Meeting

Frances Rowe was fined \$28,000 for laundering campaign contributions to her own campaign for Sunnyvale City Council in 1995.

During the 1995 campaign, Rowe donated money to her campaign. Rather than list herself as the donor, she elected to list various people as campaign donors, when in fact these people did not donate money to her campaign. Rowe also created campaign ledgers detailing the false contributors. After the FPPC initiated an investigation, Rowe contacted the false contributors to ask them to lie to FPPC investigators. When interviewed by the FPPC, Rowe admitted she had laundered her own money.

The Political Reform Act prohibits making campaign contributions in the name of another person. Commonly known as “campaign money laundering,” the illegal act deprives the public of the right to know the true source of contributions.

Roger Pan was fined \$12,600 for laundering \$3,000 in campaign contributions to Willie Brown during the 1995 San Francisco mayoral election.

Pan is the owner of Pan Pacific Ocean, Inc., Panco Development, and Unity Pacific Company which are real estate and trading companies located in San Francisco.

Pan reimbursed his employees in cash for making contributions to Brown’s campaign and was the true source of the contributions. The total of the laundered contributions exceeded the limits imposed by a San Francisco campaign contribution ordinance.

Larry D. Christiani was fined \$11,000 for laundering \$3,000 in campaign contributions to the campaign of Woodside City Council candidate Pete Sinclair who was elected in the November 7, 1995, election.

Christiani is a Los Gatos general building contractor and principal owner of Larry Christiani Construction, Inc. Christiani was the manager for a project which involved, in part, the building of an 18,000 square foot home in Woodside. At the time, Woodside had restrictive building criteria and Sinclair was supportive of loosening the criteria for homeowners.

One month after being elected to office, Sinclair received seven \$500 contributions. One of the contributions was from Christiani. The other six contributions were made in the names of Christiani’s employees and subcontractors, rather than in Christiani’s name, although Christiani had personally reimbursed them for making the campaign contributions to Sinclair.

May 7 Meeting

Blackhawk Corporation d.b.a. Blackhawk Development Company (Blackhawk) was fined \$26,000 for laundering campaign contributions to the Friends of Gail Bishop committee. At the time the contributions were made, Bishop was a Contra Costa County Supervisor.

Between October 1992 and March 1996, employees and associates of Blackhawk were reimbursed out of the corporation’s petty cash fund for making contributions to Bishop’s committee.

Enforcement Actions

Santee Mobile Estates (SME) was fined \$17,000 for laundering campaign contributions to Save Our Santee committee and Santee City Council candidates Rita Lee, Steve Green and Jack Dale.

SME, a limited partnership that owns a mobile home park in Santee, reimbursed employees for making campaign contributions to candidates and committees that were opposed to Santee's mobile home rental control ordinance. At the time the contributions were made, Santee had a local ordinance limiting campaign contributions to candidates and committees from a single source to \$250 per election and prohibiting contributions from businesses.

Ralph Turner was fined \$5,400 for laundering campaign contributions to San Diego County Supervisor Dianne Jacob.

Turner, the owner of a manufacturing company in Ramona, San Diego County, reimbursed an employee and his then-fiancee for making contributions to Jacob. At the time the contributions were made, the County of San Diego had an ordinance limiting campaign contributions to a candidate from a single source to \$250 per election.

Mikan Properties was fined \$5,100 for laundering campaign contributions to the Santee Recall 1994 committee.

Mikan Properties is a development and property management firm located in Buena Park. The principals of Mikan Properties are also managers and part owners of Zuma Trading Inc., that owns and manages a mobile home park located in Santee. The Santee Recall 1994 committee was formed to recall three Santee City Council members who were in favor of a mobile home rent stabilization ordinance.

Santee has an ordinance limiting contributions to \$250 per individual in an election and a ban on campaign contributions from corporations or businesses. Consequently, Mikan Properties and Zuma Trading Inc. were prohibited from making any contributions to the recall committee.

Conflict of Interest Violations

May 7 Meeting

Gary Langston was fined \$5,000 for participating in and voting on a governmental decision which directly involved a business entity that was a source of income to him and for failing to timely disclose the business entity on his assuming office, 1995 and 1996 annual statements of economic interests.

Langston was appointed as a planning commissioner for the city of Delano effective June 1, 1995. Prior to his appointment, Langston worked for the City of Delano as the chief building inspector; he resigned this position on April 16, 1995.

On April 17, 1995, Langston accepted employment with Workman Brothers Development Company as a subdivision tract foreman. Workman Brothers is a major residential builder in the Delano area.

At the November 27, 1995, planning commission meeting, Workman Brothers brought a general plan and zone amendment to reduce the minimum lot sizes and minimum lot widths within the medium and high density land use areas of the specific plan for a development project. At the meeting, Langston participated in the discussion and voted on the application.

Langston also failed to report Workman Brothers as a source of income on his assuming

Enforcement Actions

office and 1995 and 1996 annual statements of economic interests.

Richard Wright was fined \$2,000 for using Bakersfield Community College computers at a seminar conducted by a computer technology business in which he had an investment interest.

Wright was the President of Bakersfield Community College in 1994. At the same time, Wright had an investment in and was an officer of Vitek, a computer technology business. In July 1994, Vitek held a multi-media seminar in North Lake Tahoe. The seminar was attended by 38 individuals, seven of whom were on the staff of Bakersfield Community College. These seven staff members were solicited to attend the seminar through a notice sent to all faculty and staff. Some of these staff members were reimbursed by the college for their travel costs.

Wright, in his capacity as President of the college, made the decision to use the seven staff member's computers for use by all of the attendees at the seminar. Wright physically transported the computers from the campus to the seminar. In exchange for the use of the computers, Vitek waived the tuition for the staff members who attended. The other 31 attendees at the seminar paid a tuition of \$495 per person, and used the staff computers, along with three others provided by Vitek. Vitek sold three computer packages at a cost of \$3,000-\$4,000 each, and these computers were also used by the attendees at the seminar.

Since the seminar went forward with the use of the college's computers, it was reasonably foreseeable that Wright's governmental decision to use the computers would have a

direct material financial effect on an interest in which he was an officer and had an investment.

Ken Marks, Tuolumne County Supervisor, was fined \$1,500 for voting on a matter in which he had a financial interest. In late 1994, developer Bill Beck began having informal meetings with Tuolumne County supervisors and other county officials concerning the possible formation of a communities facilities district, specifically for the public financing of a south shores golf course. Beck and Leo Peterson were the general partners of South Shore Ranches, a limited partnership that owned the property for the proposed golf course.

In March 1995, Marks and Supervisor William F. Holman traveled to Washington, D.C., to lobby for the county. The supervisors also traveled from Washington, D.C., to Pinehurst, North Carolina, to visit a golf course similar to the golf course proposed by South Shore Ranches. South Shore Ranches provided the supervisors' travel, lodging, food and a round of golf, with a total value of \$381 each.

At the November 14, 1995, board of supervisors meeting, both supervisors voted to authorize county staff to structure a proposal to implement the South Shore project. Neither supervisor disclosed receipt of gifts at the meeting. At the time the decision was made, the Act prohibited public officials from using their positions to influence governmental decisions concerning the donor of a gift of \$280 or more 12 months before the decision was made.

Disclosure Violations

March 5 Meeting

Enforcement Actions

Albert Robles was fined \$5,000 for failing to file late contribution reports and failing to disclose two contributions that were made from an intermediary in connection with a State Board of Equalization election in 1994.

Robles failed to file four late contribution reports for contributions received of \$1,000 or more. Additionally, Robles accepted two \$2,500 checks drawn from the account of Armando Ramirez. Ramirez told Robles that the contributions were actually from Ramirez's father, Jose Ramirez. Robles did not disclose Armando Ramirez as the intermediary for the two contributions.

Pete Sinclair, Committee to Elect Pete Sinclair, and Lori Laub, treasurer, were fined \$1,500 for failure to report the correct identity and the occupation and employer information for persons making contributions to the Committee to Elect Pete Sinclair.

Sinclair was a successful candidate for the Woodside City Council in the November 7, 1995, election. One month after the election, Sinclair received seven contributions totaling \$3,500, the amount of his campaign debt. The semi-annual campaign statement filed by Sinclair and Laub contained the wrong name for three of the contributors and omitted the occupation and employer information for all the contributions listed on the statement.

April 2 Meeting

Margaret Pryor and Friends of Margaret Pryor were fined \$53,000 for campaign disclosure violations. Pryor failed to timely file semi-annual campaign statements from 1991 through 1994; campaign contributions and expenditures of \$100 or more were not reported; Pryor verified under penalty of perjury that inaccurate campaign statements were true and complete; expenditures of \$100 or more were made in cash; and campaign records were not properly maintained.

Donald Barnett and Committee to Elect Donald Barnett were fined \$5,000 for failure to file a statement of organization in a timely manner; failure to file a pre-election statement; and failure to file a late contribution report. Barnett was an unsuccessful candidate for Los Angeles Superior Court Judge in the June 7, 1994, election.

Alfred Cobos and Committee to Elect Al Cobos were fined \$4,000 for failure to timely file a pre-election campaign statement in connection with the November 2, 1993, election; failure to timely file two semi-annual campaign statements; and failure to deposit all contributions or loans made to the candidate or to the candidate's controlled committee into, and to make all campaign expenditures from, the campaign bank account.

Cobos was a successful candidate for the Bassett Unified School District Board of Trustees in the November 2, 1993, election. He failed to file any of his campaign disclosure reports until June 4, 1996, which was approximately two and a half years after the school board election.

May 7 Meeting

Glendon B. Craig was fined \$5,000 for failing to report occupation and employer information for persons making contributions, failing to maintain required records necessary to properly prepare campaign statements, and failure to file a semi-annual campaign statement for the period ending December 31, 1991.

Craig is currently Sheriff of Sacramento County. He was first elected in 1986 and conducted successful reelection campaigns in 1990 and 1994.

California Republican Party (CRP) was fined \$3,000 for failing to file a late independent expenditure report and failing to file a supplemental independent expenditure report in connection with the 40th Assembly District election held on March 26, 1996.

In March 1996, CRP sent approximately 20,000 letters opposing Assemblyman Brian Setencich. The letters, which were sent just prior to the March 26, 1996, election, were not accurately reported on CRP's campaign statements. Additionally, no independent expenditure reports were filed for the expenditures made in connection with the letters.

Diablo Valley College Foundation (Foundation) was fined \$2,500 for failure to file a major donor committee campaign statement and failure to file a late contribution report.

The Foundation is a non-profit organization formed to support the Diablo Valley College, which along with two other community colleges are part of the Contra Costa Community College District (CCCCD). The Foundation made several monetary and non-monetary contributions totaling in excess of \$10,000 to

support Measure D, a CCCCDD sponsored bond measure. Despite qualifying as a major donor committee, the Foundation did not file the required campaign statement. In addition, during the late contribution reporting period, the Foundation made an \$18,184 contribution and a late contribution report was not filed.

Other Violations

February 5 Meeting

Assemblymember Jim Battin was fined \$14,000 for accepting gifts over the gift limit and failing to disclose receipt of the gifts on his 1995 annual statement of economic interests.

In January 1995, Battin selected a suit at the Men's Wearhouse costing \$509.10. The suit was paid for by a longtime friend, Mark Abrams, using the corporate credit card for Pacific West Consolidated Capital. Battin did not repay his friend for the suit until May 1996.

After his election in the November 1994 general election, Battin and Abrams discussed Battin renting one room in a two bedroom condominium from Stephen Tobia of Pacific/West Communications Group for \$150 per month. Tobia co-founded Pacific West Consolidated Capital with Abrams and other persons. Tobia had contemplated buying a condominium in Sacramento since Pacific/West Communications Group often had employees staying overnight in the Sacramento area. The purchase of the condominium was not completed when the bank denied approval for the proposed short sale transaction.

In January and February 1995, Abrams used the Pacific West Consolidated Capital corporate credit card to pay Battin's hotel bills in Sacramento totaling \$2,863.83. Battin believed

Enforcement Actions

that he was contractually entitled to this arrangement because his oral agreement to rent the condominium bound Tobia and Pacific West to provide him with housing, and that he was contractually obligated to make monthly payments of \$150 for the housing.

In March 1995, Battin and Abrams found an apartment for Tobia to replace the condominium, which Battin rented for approximately four months. Pursuant to the lease, Battin was charged \$125 per month for the furnished apartment, with no security deposit, and all utilities to be paid by Tobia. Battin did not forward rental payments to Tobia until April 1995.

March 5 Meeting

Mel Assagai was fined \$2,000 for agreeing to a lobbying contract which included a bonus contingent upon the enactment of proposed legislation.

In November 1996, the State Bar Board of Governors passed a resolution to negotiate a professional services contract with Assagai to continue his representation of the State Bar on a contractual basis. The State Bar and Assagai reached a tentative agreement in mid-December 1996 that included a flat fee to Assagai of \$500,000 per year for two years.

Subsequently, State Bar President Thomas Stolpman communicated to Assagai his dissatisfaction with the fee arrangement and made a counterproposal of a flat fee of \$450,000 per year for two years, with a \$75,000 bonus if Assagai secured enactment of a multi-year funding bill for the State Bar. In January 1997, Assagai and the State Bar reached a final written professional services agreement which incorporated a contingent bonus clause.

The Act prohibits lobbyists or lobbying firms from accepting or agreeing to accept any payment in any way contingent upon the defeat, enactment or outcome of any proposed state legislation or state administrative action.

Lucille Nelson was fined \$2,000 for failing to notify Residents to Protect Our Neighborhoods (RPN) that she was the intermediary of a \$4,000 contribution. Nelson was connected to the Bell Gardens Bicycle Club that laundered campaign funds to RPN. The laundering helped conceal the Bicycle Club's secret sponsorship of RPN.

The Act requires disclosure of the true contributor when intermediate persons or agents make political contributions.

April 2 Meeting

Robert Bourseau was fined \$6,000 for making a contribution of \$100 or more using a written instrument that failed to contain the name of the donor and failing to disclose the required information to the recipient of the contribution.

Bourseau was a partner in California Psychiatric Management Services (CPMS). In 1994, Bourseau directed cashier's checks to San Fernando City Council Candidates Doude Wysbeek and Dan Acuna. The name of the donor was not written on the cashier's checks to Wysbeek and Acuna. Bourseau failed to inform the recipients that the funds were from CPMS.

The Act prohibits making campaign contributions of \$100 or more unless they are made by way of a written instrument containing the names of both the donor and the payee.

James Cheap was fined \$2,000 for bidding on a contract in which he had made technical decisions while he was employed by the California State Lottery (CSL) within one year of leaving his position with the State of California.

Cheap was employed with the CSL from August 1986 until January 4, 1993. He served as a Data Processing Manager 3. Upon his retirement, he returned to state service as a retired annuitant. He terminated all employment with the State of California on March 31, 1994.

During Cheap's tenure with CSL, he served as a technical adviser and made decisions which influenced policy and contract requirements. Included in his duties at CSL was input in the 1989 contract for 976 broadcast services. These services involved a phone system where lottery players could dial a 976 number in order to receive information on lottery results. Cheap participated in the 1989 contract by upgrading the "Scope of Work" section which was found in the 1989 contract for 976 services.

Prior to leaving state service, he formed a company, VMC, an audiotex business. VMC bid on the 976 broadcast contract within one year of Cheap leaving his position with CSL. The Act prohibits former State of California employees from submitting bids on contracts in which they participated in formulating the contract within one year of leaving state service.

May 7 Meeting

John Sorci, Joseph Filice, treasurer, and "John Sorci for Supervisor" Committee were fined \$2,000 for failing to maintain required records necessary to properly prepare campaign statements.

Sorci served on the Santa Clara City Council for four years and was Mayor of Santa Clara for

one term. Sorci was a candidate for the Santa Clara County Board of Supervisors in the June 7, 1994, election. Sorci and his committee failed to maintain adequate campaign records during the period of January 1, 1993, through June 30, 1994.

Moragans for Moraga/Orinda Fire Merger were fined \$1,500 for sending out a mass mailing that did not identify the sender of the mailing.

Moragans for Moraga/Orinda Fire Merger sent out a 3,985 piece mass mailing in May 1997 in connection with a measure on the June 3, 1997, ballot to support the merger of the Moraga and Orinda fire districts. The mailer identified endorsements that local officials had given to the merger. However, the mailer failed to identify the sender of the mailing.

Legislation Update

Commission Pay Increase Bill Switched to Back Audit Findings

SB 2090 (Maddy) was originally intended to increase to \$25,000 the pay of the four part-time members of the FPPC, whose \$100 stipend for meetings remains unchanged after 24 years. Because any pay increase for FPPC members would automatically increase the pay for members of the Citizens Compensation Commission, the bill was amended at FPPC request to remove the pay increase and will instead be used to implement recommendations of the State Auditor resulting from a current performance audit.

Legislation (if approved by the Legislature and signed by the Governor) will amend the Political Reform Act.

SB 304 (Karnette) - Repeals and reenacts portions of Proposition 208 that deal with advertisement disclosure and the provision of free ballot statements to statewide candidates.

SB 520 (Brulte) - Prohibits payments for political telephone calls aggregating 1,000 or more unless the recipient is informed who is paying for the call. Candidates, campaign managers and volunteers would be exempt from the prohibition.

SB 1713 (Johnson) - Calls a statewide election to repeal the contribution limits of Proposition 208 and reestablishes the contribution limits of Proposition 73, replacing the fiscal year cycle with an election year cycle.

SB 1736 (Johnston) - Requires any person, other than a committee, who spends more than \$5,000 in a 12-month period “to engage in issue advocacy” to report their activities, including the filing of semiannual statements, preelection statements, late contribution reports, and late independent expenditure reports.

SB 1737 (McPherson) - Creates an eleven member bipartisan commission to study the effectiveness of the Political Reform Act.

SB 1764 (Karnette) - Requires that the ballot pamphlet be made available on the internet.

SB 1921 (Hayden) - Prohibits political consultants from lobbying a client while the client holds a public office and also prohibits a political consultant from lobbying a former client for a period of one year after their business relationship has ended or until the consultant is no longer owed economic consideration for consulting services provided to that client.

SB 1953 (Vasconcellos) - Provides public campaign financing for state candidates.

SB 2106 (Watson) - Provides comprehensive reform of campaign financing.

AB 932 (Figueroa) - Prohibits the Insurance Commissioner from using agency funds to make public outreach advertisements that use the Insurance Commissioner’s name, likeness, or voice and would grant the FPPC the authority to enforce this provision.

AB 1233 (Granlund) - Requires a paid signature gatherer to disclose the fact that he or she is being paid, the amount, and by whom. The bill would also require committees primarily formed to support or oppose a ballot measure to file certain campaign statements and encourages the Commission to prevent duplication of certain reporting requirements by regulation.

AB 1336 (Vincent) - Requires general purpose committees that spend \$1,000 to qualify a measure to establish a separate primarily formed committee and requires primarily formed committees that support or oppose two or more measures to report expenditures of \$100 or more.

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Legislation Update

Continued from previous page

AB 1864 (Papan) - Prohibits the FPPC from imposing any fine upon a candidate, committee, or treasurer of a committee, for a violation of certain provisions of the Act unless the Commission first provides written notice of the violation to the violator and the violation is not corrected within 21 calendar days of receipt by the violator of written notice by the Commission of the violation.

AB 1923 (Firestone) - Repeals and reenacts portions of Proposition 208 relating to independent expenditures and advertisements and requires committees that make late independent expenditures to include the name and other specified information concerning persons who make cumulative contributions, including loans, of \$1,000 or more during the late contribution period to the committee.

AB 2179 (Thompson) - Requires each state agency to offer at least semiannually, and certain state officials and employees to attend once every two years, an orientation course on the relevant ethics statutes and regulations that govern the official conduct of state officials.

AB 2327 (Frusetta) - Requires itemization of contributions, including loans, and expenditures that total \$50 or more during the period covered by the statement.

AB 2814 (Papan) - Significantly weakens existing conflict-of-interest restrictions for approximately 3,000 public officials appointed by the Governor.

Litigation Update

Proposition 208 Lawsuit

On January 6, 1998, Federal District Judge Lawrence K. Karlton issued a preliminary injunction that barred enforcement of Proposition 208. He also ordered the Commission to seek reformation or severance of the measure by the California Supreme Court. The Commission asked Judge Karlton to stay that part of his order, and he agreed.

The Commission appealed the ruling on February 3, 1998, challenging all parts of Judge Karlton's order, including his findings on the constitutionality of the contribution and spending limits.

The opening briefs from the FPPC and the proponents of Proposition 208 (who have intervened) are due to be filed with the Ninth Circuit by May 28. Plaintiffs will have 30 days to file opposing briefs. The FPPC and interveners may then file reply briefs within 14 days. The briefing phase will conclude in mid July, unless extensions are granted. After briefing is completed, the court will decide whether and when to conduct a hearing.

Administrative Overhead Lawsuit

On February 10, 1998, a unanimous California Court of Appeal reversed a lower court decision and upheld amendments to Commission Regulations 18215 and 18419. The regulations exempt from the definition of "contribution" administrative overhead and start-up expenses paid by an organization to its sponsored committee. However, these expenses must continue to be reported.

The proponents of Proposition 208 asked the California Supreme Court to review the decision. The Supreme Court has denied the proponent's appeal.

Pre-Election Campaign Statements

Who Must File

The following candidates, officeholders and committees must file pre-election campaign statements in 1998:

- Candidates seeking election in 1998 to state, county, multi-county, city or judicial offices, who will raise or spend \$1,000 or more. (Candidates who will not raise or spend \$1,000 in a calendar year may file **one** Form 470 - Short Form Campaign Statement by the due date for the first pre-election statement.)
- State officeholders who are not being voted upon are required to file if the officeholder or his/her controlled committee has made:
 - **any** contributions out of personal or campaign funds to another officeholder, candidate or committee.
 - **any** independent expenditures to support or oppose another officeholder, candidate or measure.
 - **any** transfer of funds to a ballot measure committee he/she controls during the period covered by the pre-election statement.
- Ballot measure committees primarily formed to support/oppose ballot measures in 1998 elections.
- Committees primarily formed to support/oppose candidates being voted upon in 1998.
- State and County General Purpose Committees that make contributions/independent expenditures of \$500 or more during the pre-election periods specified on the June 2, 1998 and November 3, 1998 campaign statement filing schedules on next page.

Note: State and County General Purpose Committees that make contributions in elections held on dates other than June 2 and November 3 are not required to file pre-election statements in connection with those elections.
- City general purpose committees that make contributions or independent expenditures totaling \$500 or more during the six-month period in which the election is held.
- City major donor committees and independent expenditure committees during a six-month period in which the city election is held.

**Refer to appropriate campaign
disclosure manual for further information**

Candidate/Treasurer Workshops

- ◆ Review of campaign forms tailored to candidates in the November 3, 1998 election
- ◆ Mass mailing rules
- ◆ Campaign laws and restrictions

Imperial Beach

Tuesday, August 4
Community Center
825 Imperial Beach Blvd.
7:00 to 9:00 p.m.

Oceanside

Tuesday, August 11
Council Chambers
300 North Coast Highway
7:00 to 9:00 p.m.

Yuba City

Wednesday, August 19
Council Chambers
1201 Civic Center Blvd.
7:00 to 9:00 p.m.

Stockton

Wednesday, August 5
City Hall
425 North El Dorado
7:00 to 9:00 p.m.

Ontario

Tuesday, August 11
City Hall
303 East B Street
7:00 to 9:00 p.m.

Irvine

Thursday, August 20
Conference & Training Ctr.
One Civic Center Plaza
7:00 to 9:00 p.m.

Berkeley

Thursday, August 6
Council Chambers
2134 Martin Luther King Jr. Way
7:00 to 9:00 p.m.

El Cajon

Wednesday, August 12
Council Chambers
200 E. Main Street
7:00 to 9:00 p.m.

Arroyo Grande

Saturday, August 22
Council Chambers
215 E. Branch Street
1:00 to 3:00 p.m.

Tustin

Thursday, August 6
Council Chambers
300 Centennial Way
7:00 to 9:00 p.m.

Walnut Creek

Thursday, August 13
Council Chambers
1666 N. Main Street
9:00 to 11:00 a.m.

Santa Clara County

Saturday, August 22
1555 Berger Drive, #2
San Jose
10:00 to 12 noon

Santa Monica

Friday, August 7
Council Chambers
1685 Main Street, #102
7:00 to 9:00 p.m.

Los Angeles County

Saturday, August 15
12400 Imperial Highway
Norwalk
11:00 a.m. to 1:00 p.m.

San Francisco

Saturday, August 22
Ethics Commission
401 Van Ness, #206
11:00 a.m. to 1:00 p.m.

Sacramento

Saturday, August 8
Commission Hearing Room
428 J Street, 8th Floor
10:00 a.m. to 12 noon

Santa Cruz County

Saturday, August 15
701 Ocean Street, #210
11:00 a.m. to 1:00 p.m.

San Diego County

Tuesday, August 18
County Planning Room
5201 Ruffin Road
7:00 to 9:00 p.m.

Monterey

Monday, August 10
City Hall
Pacific & Madison Streets
7:00 to 9:00 p.m.

Reservations required for all workshops. Free — sign up today! 916/322-5660

June 2, 1998, Election Filing Schedule

<i>Filing Deadline</i>	<i>Type of Statement</i>	<i>Period Covered by Statement^{1/}</i>	<i>Method of Delivery</i>
March 22* *Sun. - File by March 23	First Pre-election	1/1/98 - 3/17/98	<ul style="list-style-type: none"> • Personal Delivery • First Class Mail
May 21	Second Pre-election	3/18/98 - 5/16/98	<ul style="list-style-type: none"> • Personal Delivery • Guaranteed Overnight Service^{2/}
24 Hours ^{3/}	Late Contributions and Late Independent Expenditures of \$1,000 or more	5/17/98 - 6/1/98	<ul style="list-style-type: none"> • Personal Delivery • Telegram • Guaranteed Overnight Service • Fax
July 31	Semi-Annual	5/17/98 - 6/30/98	<ul style="list-style-type: none"> • Personal Delivery • First Class Mail

November 3, 1998, Election Filing Schedule

<i>Filing Deadline</i>	<i>Type of Statement</i>	<i>Period Covered by Statement^{1/}</i>	<i>Method of Delivery</i>
October 5	First Pre-election	1/1/98 - 9/30/98 or 7/1/98 - 9/30/98	<ul style="list-style-type: none"> • Personal Delivery • First Class Mail
October 22	Second Pre-election	10/1/98 - 10/17/98	<ul style="list-style-type: none"> • Personal Delivery • Guaranteed Overnight Service^{2/}
24 Hours ^{3/}	Late Contributions and Late Independent Expenditures of \$1,000 or more	10/18/98 - 11/2/98	<ul style="list-style-type: none"> • Personal Delivery • Telegram • Guaranteed Overnight Service • Fax
January 31 1999* *Sun - File by February 1	Semi-Annual	10/18/98 - 12/31/98	<ul style="list-style-type: none"> • Personal Delivery • First Class Mail

- 1/ The period covered by any statement begins on the day after the closing date of the last statement filed, or January 1, if no previous statement has been filed.
- 2/ Personal or guaranteed overnight delivery is required for officeholders/candidates, their controlled committees, and committees primarily formed to support or oppose candidates or measures being voted upon on June 2, 1998, or November 3, 1998. All others may file by first class mail.
- 3/ The recipient of a late "in-kind" contribution must file a Late Contribution Report within 48 hours from the time the in-kind contribution is received.

Refer to appropriate campaign disclosure manuals for further information

For technical assistance, please contact the Commission at (916) 322-5660.

Notes:

- State and county general purpose recipient committees must file on March 22nd, May 21st, October 5th and October 22nd only if contributions/independent expenditures aggregating \$500 or more are made during the corresponding period.
- Campaign statements which contain 30 pages or less may be faxed provided that the exact original and the required copies are sent to the filing officer(s) by first-class mail, guaranteed overnight delivery service, or personal delivery within 24 hours of the filing deadline. Late Contribution and Late Independent Expenditure Reports may be faxed but are not also required to be mailed.
- State and county major donor and independent expenditure committees are *not* required to file regular pre-election statements.
- In general, city committees are not required to file pre-election statements unless the city is holding an election.

Conflict of Interest Codes *Biennial Reports*

City and County Agency Requirements

The code reviewing body for city and county local government agencies is required to notify every local agency within its jurisdiction by July 1, 1998, of the requirement that each local agency review its conflict of interest code to determine if amendments are necessary. The code reviewing body for city agencies is the city council. The code reviewing body for an agency solely within a county is the board of supervisors.

Each agency must submit a written statement no later than October 1, 1998, to its code reviewing body indicating if its code is accurate or if amendments are necessary. Amendments must be submitted to the code reviewing body for approval within 90 days of submitting the biennial report. The Commission will send an information packet explaining the biennial review process to all cities and counties in June.

Multi-County Agency Requirements

Each local government agency with jurisdiction in more than one county (multi-county agencies) is required to review its conflict of interest code and notify the Commission no later than October 1, 1998 if the code is accurate or if amendments are required.

The Commission will send an information packet explaining the biennial review process to all multi-county agencies in June. If any code revisions are necessary, the amendments must be submitted to the Commission within 90 days of submitting the biennial report.

Conflict of Interest Code Workshops for Local Agencies

The Technical Assistance Division will conduct a series of two-hour workshops for local agencies in July on adopting and amending conflict of interest codes. These workshops are **not** intended to assist state agencies in amending their conflict of interest codes - workshops will be scheduled later in 1998 specifically to address state agency code amendments.

Walnut Creek
Wednesday, July 8
Council Chambers
1666 N. Main Street
10:00 a.m. to 12 noon

El Cajon
Thursday, July 9
Council Chambers
200 E. Main Street
11:00 a.m. to 1:00 p.m.

Orange
Wednesday, July 15
Council Chambers
300 E. Chapman Avenue
11:00 a.m. to 1:00 p.m.

Fresno
Wednesday, July 22
Council Chambers
2600 Fresno Street
11:00 a.m. to 1:00 p.m.

Sacramento
Wednesday, July 22
Commission Hearing Room
428 J Street
10:00 a.m. to 12 noon

Commission Meeting Summaries

February 5 Meeting

Chairman James M. Hall called the February 5, 1998, meeting of the FPPC to order at 10:03 a.m. in the Commission Hearing Room, 428 J Street, Sacramento. In addition to Chairman Hall, Commissioners William Deaver, Kathleen Makel, James Porter and Carol Scott were present.

The Commission approved a \$14,000 enforcement fine. Amendments to Form 410, Statement of Organization; Form 496, Late Independent Expenditure Report; Form 501, Candidate Intention Statement; and Form 502, Campaign Bank Account Notice were approved to delete Proposition 208 provisions from these forms. The Commissioners also adopted a resolution concerning delegation of power and governance policy that outlines the role of the FPPC Chairman.

March 5 Meeting

Chairman James M. Hall called the March 5, 1998, meeting of the FPPC to order at 10:06 a.m. in the Commission Hearing Room, 428 J Street, Sacramento. In addition to Chairman Hall, Commissioners William Deaver, Kathleen Makel, James Porter and Carol Scott were present.

The Commissioners approved \$62,100 in enforcement fines. Amendments to Regulation 18351 - Conflict of Interest Code of the Fair Political Practices Commission and Regulation 18942 - Exceptions to Gift and Exceptions to Gift Limit were adopted by the Commission.

April 2 Meeting

Chairman James M. Hall called the April 2, 1998, meeting of the FPPC to order at 10:03 a.m. in the Commission Hearing Room, 428 J Street, Sacramento. In addition to Chairman Hall, Commissioners William Deaver, Kathleen Makel, James Porter and Carol Scott were present.

The Commission approved \$70,000 in enforcement fines. Regulation 18531.5 - Officeholder Accounts During Interim Period was adopted and Regulation 18531.4 - Officeholder Accounts--Reporting was amended. Technical amendments to the following regulations were adopted:

- Regulation 18110 - Duties of Filing Officers - Campaign Statements.
- Regulation 18363 - Administering Oaths and Affirmations.
- Regulation 18406 - Short Form for Candidates or Officeholders Who Receive and Spend Less than \$1,000 in a Calendar Year.
- Regulation 18523.1- Written Solicitation for Contributions.
- Regulation 18530 - Candidate Statement; Use of Public Funds.
- Regulation 18531 - Return of Excessive Contributions.
- Regulation 18612 - Accounting by Lobbying Firms.
- Regulation 18613 - Reporting by Lobbying Firms.
- Regulation 18615 - Accounting by Lobbyist Employers and Persons Spending \$5,000 or More to Influence Legislative or Administrative Action.
- Regulation 18616 - Reports by Lobbyist Employers and Persons Spending \$5,000 or More to Influence Legislative or Administrative Action.
- Regulation 18735 - Assuming Office Statements for Previously Designated Employees.
- Regulation 18950.1 - Gifts of Travel: Exceptions.

Continued on next page

Commission Meeting Summaries

Continued from previous page

Additionally, Regulation 18420.5 - Campaign Filing Requirements in Connection with the March 26, 1996 Statewide Primary Election was repealed. The Commission also discussed post-employment ("revolving door") laws for former state employees.

Long Range Planning Committee Meeting

Commissioners James L. Porter and William H. Deaver held a Long Range Planning Committee meeting on March 5, 1998, in the Commission Hearing Room, 428 J Street, Sacramento, with FPPC staff to discuss FPPC issues and the after-effects of Proposition 208.

May 7 Meeting

Chairman James M. Hall called the May 7, 1998, meeting of the FPPC to order at 10:02 a.m. in the Commission Hearing Room, 428 J Street, Sacramento. In addition to Chairman Hall, Commissioners William Deaver, Kathleen Makel, James Porter and Carol Scott were present.

The Commission approved \$76,000 in enforcement fines. The 1998 Addendum to Campaign Disclosure Manuals A-E was approved. Additionally, the Commissioners discussed the Conflict of Interest Regulations Improvement and Standardization Project.

Mark Your Calendar...

General Purpose Committee Workshops

- ◆ Overview of campaign disclosure provisions
- ◆ Review of Forms 450 and 420

A general purpose committee is any entity that receives \$1,000 or more in contributions during a calendar year but is not primarily formed to support or oppose a single officeholder, candidate, measure or specific candidates or measures being voted on in a single election. General purpose committees are more commonly referred to as political action committees ("PACs").

Sacramento

Friday, July 10 ♦ Friday, October 9

Commission Hearing Room
428 J Street, 8th Floor
10:00 a.m. to 12 noon

Lobbying Disclosure Workshops

- ◆ Review of Forms 615, 625, and 635
- ◆ Discussion of gift notifications

This workshop is not intended for lobbyists who need to attend an orientation course to complete their lobbyist registration. Orientation workshops are conducted by the Assembly and Senate Ethics Committees. Please call (916) 324-6929 for information on orientation workshops.

Sacramento

Friday, July 17 ♦ Friday, October 16

Commission Hearing Room
428 J Street, 8th Floor
10:00 a.m. to 12 noon

Reservations Required for all Workshops

Free – Sign up Today! (916) 322-5660

Advice Summaries

Formal written advice provided pursuant to Government Code section 83114 subdivision (b) does not constitute an opinion of the Commission issued pursuant to Government Code section 83114 subdivision (a) nor a declaration of policy by the Commission. Formal written advice is the application of the law to a particular set of facts provided by the requestor. While this advice may provide guidance to others, the immunity provided by Government Code section 83114 subdivision (b) is limited to the requestor and to the specific facts contained in the formal written advice. (Cal. Code Regs., tit. 2, §18329, subd. (b)(7).)

Informal assistance is also provided to persons whose duties under the act are in question. (Cal. Code Regs., tit. 2, §18329, subd. (c).) In general, informal assistance, rather than formal written advice is provided when the requestor has questions concerning his or her duties, but no specific government decision is pending. (See Cal. Code Regs., tit. 2, §18329, subd. (b)(8)(D).)

Formal advice is identified by the file number beginning with an “A,” while informal assistance is identified by the letter “I.” Letters related to Proposition 208 may be included under separate headings.

On January 6, 1998, the Federal District Court for the Eastern District of California issued a preliminary injunction barring further enforcement of any portion of Proposition 208. (*California ProLife Council PAC vs. Scully*, CIV-S-96-1965 LKK/DAD.) Letters pertaining to Proposition 208 may be affected in whole or in part by the preliminary injunction. Proposition 208 advice letter summaries are not summarized here, but can be accessed through the fax-on-demand service (1-888-622-1151, index 9500).

Campaign

William T. Bagley
Law Offices of Nossaman,
Guthner, Knox & Elliot, LLP
Dated November 20, 1997
Our File Number: A-97-221

An association implements a program whereby the member water companies donate turkeys to local charities during the holiday season. Legislators identify recipient charitable organizations in their districts. The association’s payments are neither a contribution nor a gift to the legislators.

Conflict of Interest

Janice Cader-Thompson
Petaluma
Dated October 14, 1997
Our File Number: A-97-393

This letter advises that a member of a city advisory committee is not a public official solely by virtue of her membership on the committee. Members who are already public officials are subject to the disclosure and disqualification provisions of the Act.

George L. Root
Foley, Lardner, Weissburg
& Aronson
Dated October 8, 1997
Our File Number: I-97-397

This letter analyzes whether a board member of a health care district will have a conflict of interest in the board’s decisions concerning an affiliation agreement. The official is a doctor in one of two hospitals owned by the district.

W. Reece Hirsch
Davis Wright Tremaine LLP
Dated October 15, 1997
Our File Number: A-97-459

This letter provides a follow-up to Advice Letter No. A-97-294 and clarifies and modifies advice based upon new facts.

Duane T. Brooks, O.D.
City of Mount Shasta
Dated October 29, 1997
Our File Number: A-97-471

A member of a city council is an optometrist. He has seven patients who are city employees or their dependents. He may not make, participate in making, or use his official position to influence a governmental decision if it is reasonably foreseeable that the decision will affect his patients who are sources of income of \$250 or more within 12 months before the decision.

Jeffrey Jandura
City of Lemon Grove
Dated October 30, 1997
Our File Number: A-97-477

Payment made from the State of California either through negotiation or court judgment is a disqualifying source of income. However, the public generally exception will apply under certain facts.

Diane Beebe
City of Azusa
Dated October 21, 1997
Our File Number: A-97-490

A city council member owns residential real property located 1180 feet from development project boundaries. No conflict would exist if Regulation 18702(a)(3) factors are not met, and if there was no personal financial effect.

Cristina Cruz-Madrid
City of Azusa
Dated October 21, 1997
Our File Number: A-97-491

A mayor owns residential real property located 335 feet from development project boundaries. No conflict would exist if Regulation 18702.3(a)(3) factors are not met, and if there was no personal financial effect.

James Grosser
City of Azusa
Dated October 21, 1997
Our File Number: A-97-492

Planning commissioners own residential real property located 2080 feet from development project boundaries. No conflict would exist if Regulation 18702.3(a)(3) factors are not met, and if there was no personal financial effect.

Michele R. Vadon
Burke, Williams & Sorensen
Dated October 17, 1997
Our File Number: A-97-502

An official must exercise reasonable diligence to determine whether the effect of a governmental decision on his or her financial interest is material. The official must make a good faith effort to assess the effect of the decision by using an objective and reliable method of valuation.

Joseph R. Rocha
City of Azusa
Dated October 21, 1997
Our File Number: A-97-503

A city council member owns residential real property located 915 feet from development project boundaries. No conflict would exist if Regulation 18702.3(a)(3) factors are not met, and if there was no personal financial effect.

Advice Summaries

Joseph L. Stine
City of Oceanside
Dated October 31, 1997
Our File Number: A-97-510

This letter asks whether planning commissioners may participate in deliberations of proposed changes to a zoning ordinance regarding limits on outdoor commercial activities ancillary to business operations that are run primarily from inside the buildings.

Alexander Simas
Kirk & Simas
Dated November 19, 1997
Our File Number: I-97-523

This letter explains the extent to which an otherwise disqualified public official may participate in the decision-making process under the legally required participation rule. This letter also explains the status of the Attorney General's interpretation of this issue under 61 Ops. Atty. Gen. 243.

Dr. David W. Gordon
Burbank
Dated December 31, 1997
Our File Number: A-97-524

The Act does not regulate the personal speech of public officials. Public officials do not have a material financial interest in a business entity indirectly affected by a decision of his board because the decision will not have the impact required by Regulation 18702.2(g).

Stephen R. Ledoux
Mackenzie & Albritton
Dated December 15, 1997
Our File Number: A-97-527

An associate of a public official who has excused himself from decisions affecting the telecommunications industry would like to represent a cellular company on an ad hoc group organized by the city.

Steven R. Meyers
Meyers, Nave, Riback,
Silver & Wilson
Dated October 30, 1997
Our File Number: A-97-529

A city attorney must make a good faith effort to assess whether the effect of a governmental decision on his property is material. He may advise the city staff and city council regarding the proposed development if the appraisal of his property considered the factors in Regulation 18702.3 (d), the underlying facts on which the appraisal was based are accurate and his reliance on the appraisal is in good faith.

James Sanchez
City of Salinas
Dated November 14, 1997
Our File Number: A-97-533

Based on the facts provided, it appears that the public generally exception will apply and therefore the councilmember may participate in decisions regarding the annual assessments for the districts where the councilmember has a real property interest.

Charles B. Christensen
Detisch & Christensen
Dated December 11, 1997
Our File Number: A-97-536

A chairman of a housing commission would be disqualified in any commission decision that would have a reasonably material financial effect on the nonprofit public benefit corporation, where the Chairman is a salaried employee, and the effect is not distinguishable from the public at large.

Patrick Greenwell
County of Tuolumne
Dated December 23, 1997
Our File Number: A-97-543

This letter provides a conflict of interest discussion involving a land use decision adjacent to a golf course where two public officials are members. The public officials also seek guidance regarding divestment of their membership.

Debbie Rodgers Teasley
City of Moorpark
Dated December 9, 1997
Our File Number: I-97-545

A real estate agent may have a conflict of interest in a decision to approve a specific plan. The foreseeability element is met since the official intends to take advantage of resulting business opportunities. Given the magnitude of the project, it appears the materiality element is also met.

James F. Meade
County of Orange
Dated December 2, 1997
Our File Number: A-97-546

Public sector retirement benefits are exempt from the definition of income for conflict-of-interest purposes.

Mary B. Whittlesey
San Luis Obispo
Dated December 16, 1997
Our File Number: A-97-552

A member of the board of directors of a nonprofit organization is responsible for the decision to hire a public official's spouse to do work for the organization. The director is considered a source of income to the public official.

Dean Kunicki
City of Simi Valley
Dated December 4, 1997
Our File Number: A-97-555

The Act does not prohibit a public official from taking a paid position. However, the Act does prohibit a public official from participating in a governmental decision that will have a reasonably foreseeable and material financial effect on any source of income over \$250.

Michael Milich
City of Modesto
Dated December 22, 1997
Our File Number: A-97-558

This letter discusses whether a conflict would exist if an official's firm enters into an agreement to serve as subcontractor for a potential bidder on a project.

William R. Seligmann
City of Campbell
Dated December 5, 1997
Our File Number: A-97-561

A councilmember may participate in council decisions to implement the city's community center master plan if he can reasonably rely on the appraisal stating that the effect on his residence's/property's value will be below \$5,000 and the potential effect on its value is close to zero.

William R. Seligmann
City of Campbell
Dated December 5, 1997
Our File Number: A-97-565

A councilmember may participate in the decision to approve or deny the application for the office building and parking garage if there is no reasonably foreseeable and material economic effect on his source of income.

Daniel S. Hentschke
City of Oceanside
Dated December 30, 1997
Our File Number: A-97-567

This letter discusses the effects on an official's real property interest within a redevelopment area. Business interests of the official's spouse create a disqualifying conflict of interest.

Advice Summaries

Mary Ann Krause
Santa Paula
Dated December 19, 1997
Our File Number: A-97-572

This letter provides a conflict of interest discussion that focuses on the application of “parent-subsidiary” and “otherwise related business entities” rules. This letter is a follow-up to Advice Letters Nos. A-97-197 and A-97-401.

Jean Cihigoyenette
Cihigoyentche, Grossberg
& Clouse
Dated December 30, 1997
Our File Number: A-97-574

This letter provides the standard for determining materiality of the effect of an assessment decision on an employer of a water district boardmember, where the employer is a ratepayer. The public generally exception is not applicable when the decision affects all businesses using sewage lines, those users are not the “predominant industry” or fifty percent of businesses in the jurisdiction.

Statement of Economic Interests

Millett Thomas
City of American Canyon
Dated November 13, 1997
Our File Number: A-97-551

Statements of economic interests may be kept, and made available to the public for inspection, with any agency designated by the city council.

Honoraria

Karen Matthews
County of Stanislaus
Dated October 21, 1997
Our File Number: A-97-518

A designated employee may not accept an honorarium from any source if the official would be required to report the receipt of income or gifts from that source on his or her economic interests. This letter also provides a discussion of a bona fide business, trade, or profession; payments for transportation in California and related lodging and subsistence.

Conflict of Interest Code

Theresa Nagel
Lassen County Courthouse
Dated November 17, 1997
Our File Number A-97-466

Persons classified as deputy public defenders appear to make or participate in making governmental decisions and should be included in the county’s conflict of interest code.

Craig J. Cannizzo
Hanson, Bridgett, Marcus,
Vlahos & Rudy, LLP
Dated December 23, 1997
Our File Number: A-97-562

Under the *Siegel Opinion*, a nonprofit organization that was reorganized pursuant to an affiliation agreement between a hospital district and a private corporation is a local government agency and is subject the conflict of interest code requirements of the Act.

Mass Mail

J. Arnoldo Beltran
Beltran Leal & Medina
Dated October 31, 1997
Our File Number: A-97-509

A city may prepare, produce, and distribute a newsletter at public expense, which was produced in consultation with the city and makes a reference to the city council, but does not reference or include a photograph of any elected officer of the city.

Nancy K. Smith
Palmdale School District
Dated December 4, 1997
Our File Number: I-97-549

This letter provides a general discussion of various mass mailing issues regarding the school district newsletter.

John B. Pang
Meeks Bay Fire
Protection District
Dated December 11, 1997
Our File Number: A-97-559

Five districts would like to inform the public of the individual board members while complying with the mass mailing provisions of the Act.

Revolving Door

William Garcia
Fair Oaks
Dated October 21, 1997
Our File Number: A-97-445

This letter advises that the one-year “revolving door” ban applies only to an official’s former state agency. The ban does not apply to state agencies with which the official or employee contracted in his or her private capacity, unless the official or employee was a “consultant” within the meaning of the Act when performing those duties.

Rebecca Parker, Ph.D.
Davis
Dated December 16, 1997
Our File Number: A-97-446

This letter provides advice to a former state employee who is considering employment with a “joint powers agency” regarding the post-employment restrictions of the Act.

Ben Davidian
Wilke, Fleury, Hoffelt, Gould
& Birney, LLP
Dated December 5, 1997
Our File Number: A-97-531

This letter provides a “revolving door” analysis applied to a former member of the Governor’s office who will work for a nonprofit organization. The requestor had argued that the former employee should not be subject to the broader prohibitions applicable to ex-employees within the Governor’s office.

Lobbying

Dina E. Goldman
The State Bar of California
Dated November 12, 1997
Our File Number: I-97-532

When the State Bar hires an independent contractor lobbyist who is not designated in the Bar’s conflict of interest code, the Bar must report all payments made in connection with influencing legal or administration action including internal expenditures made in support of lobbying activities by employees of the Bar.

Advice Summaries

Gift Limits

Carrie Lee Coke
California Manufacturers Assn
Dated November 12, 1997
Our File Number: A-97-501

An organization may host a series of issues forums at which a legislator speaks and receives dinner. The meal is not a “payment” if the legislator gives a speech.

Jonas J. Austin
Sacramento
Dated December 8, 1997
Our File Number: A-97-550

A wedding gift from a lobbyist to a legislative official generally may not exceed a value of \$20. If the gift is peculiarly adaptable to the personal use of the official, the limit would be \$10. If it is for the exclusive use of the non-official spouse, there is no limit.

Paul Bostwick
Anaheim Resort RV Park
Dated December 17, 1997
Our File Number: I-97-568

Gifts of travel are reportable. A good faith determination should be made to determine the value of the gifts. The payments should be reported on Schedule F. The Commission does not advise on past conduct.

Personal Use

Matt Weyuker
Osteopathic Physicians and
Surgeons of California
Dated December 23, 1997
Our File Number: A-97-576

A sponsored committee wishes to loan or reimburse its sponsoring organization for operating expenses and overhead. A committee may reimburse its sponsoring committee under certain circumstances.

Miscellaneous

Emma Solden
City of Santa Cruz
Dated December 1, 1997
Our File Number: A-97-426a

This letter affirms our advice in the *Solden* Advice Letter No. A-97-426.

Daniel P. Marshall III
California Earthquake
Authority
Dated October 14, 1997
Our File Number: A-97-455

The Commission does not have the authority to interpret the validity of Insurance Code Section 10089.7.

1998 Political Reform Act Available

The Political Reform Act is now available. The publication is a reprint of Government Code Sections 81000-91015 as amended to January 1, 1998.

Also included in this publication are brief histories of amended sections and a listing of applicable regulations, opinions and enforcement decisions. These annotations are provided for information and are not part of the Act.

You may request a copy of the Act at a cost of \$10 per copy* by completing the order form below. Please send your check and order form to:

**Fair Political Practices Commission
428 J Street, Suite 450
Sacramento, CA 95814**

Only credit card orders may be faxed.
Fax: (916) 322-3711

**All cities and counties will automatically receive a complimentary copy.*

(Detach and include with payment)



Political Reform Act Order Form

Name: _____

Agency/Firm: _____

Address: _____

City: _____ State: _____ Zip: _____

Telephone: _____

Type of Card: _____ Credit Card No. _____

Exp: _____

Send \$10 with your order for each copy requested. Please make checks payable to State of California. *(Credit card orders may be faxed.)* **DO NOT SEND CASH.**

Number of copies requested: _____

Ballot Measures: Important Information For Public Agencies From The California Fair Political Practices Commission

Public officials and public employees need to know the rules before getting officially involved in ballot measure campaigns. Check with the FPPC if you have questions about ballot measure campaign issues. (916) 322-5660.

In general, public funds or public resources may be used impartially to educate or inform citizens about a ballot measure. But if a communication directly or indirectly urges an election result, the agency responsible for sending it may be required by the California Political Reform Act to disclose the source and amount of money used for printing and mailing. Violation of the disclosure law may result in fines.

Other state laws prohibit use of public funds for campaign purposes.

What is a ballot measure?

A ballot measure is any proposition put on a voter election ballot by a city council, county board of supervisors, school board or other elected body.

An initiative, referendum or recall (even those that fail to qualify for the ballot), becomes a ballot measure when petitions begin circulation.

When is Reporting Required?

- If a state or local government agency acting independently, spends \$1,000 or more in a calendar year for mailings, advertisements, or other communications to voters that urge a particular result in the election; or
 - Receives monetary or in-kind contributions totaling \$1,000 or more in a calendar year for political purposes; or
 - Makes monetary or in-kind contributions to an existing committee (e.g., a ballot measure committee) totaling \$10,000 or more in a calendar year,
- then it must report contributions and expenditures to support or oppose a ballot measure.

Express Advocacy.

A communication that only provides facts and impartial information about a ballot measure is not a reportable expenditure.

But payments for a communication that *expressly advocates* a particular result in an election may be reportable if:

- It *clearly identifies* the measure; and
- It *expressly advocates* its passage or defeat with words such as “vote for/against,” “support,” “defeat,” “cast your ballot”; or
- Taken as a whole, it *unambiguously urges* a particular result in an election.

What Is Required?

The California Political Reform Act (Government Code § 81000-91015) requires:

- Maintenance of accurate contribution and expenditure records;
- Disclosure of sources and spending to advocate a ballot measure;
- Identification of sender of more than 200 mail pieces;
- Timely filing of disclosure reports at specified times during calendar year, depending on expenditure amount and election date.

Check with your City Clerk or County Clerk.

Other California Laws.

Public officials and public employees should also be aware of other state laws that prohibit or restrict use of public funds and resources:

- **Article XVI, Section 6 California Constitution** (Prohibits gift of public funds)
- **Government Code § 8314** (Prohibits use of state resources for campaign or private activities not authorized by law)
- **Penal Code §424** (Embezzlement, falsification of accounts by public officers)
- **Government Code §§3201- 3209** (Political activities of public employees)
- **Education Code §7054** (Use of district property)
- **Education Code §7056** (Soliciting or receiving political funds)
- Also see *Stanson v. Mott* 17 Cal.3d 206 (1976) [In the absence of clear legislative authorization, a public agency may not expend funds to promote one side in an election]
- Also see *People v. Suitt* (1979) 90 Cal. App. 3d 125 (1979); *League of Women Voters v. Countywide Criminal Justice Coordination Committee* 203 Cal. App. 3d 529 (1988) [Even if expenditure by a government agency is not permitted by law, if it is made it may still be a contribution under the Political Reform Act]

For information about these laws, contact your agency legal counsel, district attorney or the Attorney General (800) 952-5225.

Call the Fair Political Practices Commission about ballot measure campaign activity or communications.

(916) 322-5660
